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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,659	09/12/2003	Robert C. Hochtritt	1517-1032	7581

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EXAMINER

NOLAND, KENNETH W

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/660,659		HOCHTRITT ET AL.	
	Examiner		Art Unit	
	Kenneth W. Noland		3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04-15-05</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim recites that the angle formed by the first section is in the range of 45-85 degrees. However, if the angle in this range were to be 45 degrees, then it is not understood how the first section would be more nearly vertical, as recited in claim 1, because as at 45 degrees the first section would be between a vertical and horizontal position. Clarification is required. In regard to claims 10 and 11, the angle formed by the second section is in a range of 15-60 degrees or in claim 11 is about 45 degrees. Again, if the angle is 45 degrees, then, as recited in claim 1, it is not understood how the second section is more nearly at a horizontal angle, because as at 45 degrees the angle would be between a vertical and a horizontal position. Also if the angle is more than 45 degrees, as recited in claim 10, then the angle of the section would be more to a vertical position than a horizontal position, as recited in claim 1.

Clarification is required and no new matter is permitted.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-6,8-11,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Petterson et al in view of Swift.As the claims would be understood,*Petterson et al discloses a dispenser for dispensing sheet products*. Note also in figure 2 the entire body 20 supported by the stand 48,50 at an angle. Note the openable cover 40 and the rubber feet 54.To modify Petterson et al's angled body for one having two sections, would be obvious in view of the teachings of Swift which shows in figure 2 the upper section 1 and the lower section 5 at an angle to the upper section so as to provide a better reach within the dispensing opening to dispense an article. The modified body of Petterson et al would effect oblique angles relative to a horizontal surface for the two sections of the body, in so much as, the entire body is angled when mounted upon the stand.In regard to claims 8-11, to provide that the two sections would be disposed at any desired angle or range of angles would be obvious as a mere choice of structural orientation design , and, therefore , this design feature is not afforded any patentable weight. In regard to claim 2, to provide that Petterson et al's body is detached form the stand would be obvious as a mere choice to detach to remove structural elements, as so desired, and, therefore, this detachment expediency feature is not afforded any patentable weight. In regard to claim 3, to provide Petterson et al's body for means to mount upon a vertical surface, would be obvious in view of the further teachings of Swift's use of the wall mounts 2 to provide for further means to mount the dispenser.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Petterson et al in view of Swift*** as applied to claims 1-6,8-11,13*** above, and further in view of **Sigl et al. To provide that Petterson et al's dispenser would dispense

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interfolded sheets would be obvious in view of the teachings of Sigl et al's use of the interfolded sheets 6 to provide for better dispensing of the sheets.*.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Petterson et al in view of Swift** as applied to claims 1-6,8-11, and 13*** above, and further in view of *Spencer et al. To modify Petterson et al's provided for mounting means for openings on the rear of the body would be obvious in view of the teachings of Spencer et al's use of the openings 246 in figure 3 to also provide for a mount to a wall.**.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Petterson et al in view of Swift** as applied to claims 1-6,8-11 and 13*** above, and further in view of **Margulies. To provide Petterson et al's body with flanges to co-operates with a cover would be obvious in view of the teaching of Margulies, which shows in figure 1 a body 6 having the flanges 46 to co-operate with the cover 4 so as to effect a better seal with the body and the cover.

*

8. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Petterson et al in view of Swift** as applied to claims 1-6,8-11 and 13*** above, and further in view of *Boone et al. To modify Petterson et al's cover to be transparent, would be obvious in view of the teachings of Boone's use of the transparent cover 316 in column 13, lines 52-55, so as to provide for an indication of the amount of sheets to be dispensed.**.

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9. Hooper is cited showing in figure 2 another type of angled body having two sections 3,4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W. Noland whose telephone number is (571) 272-6941. The examiner can normally be reached on Monday-Thursday ,each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Kenneth W. Noland 7/27/2005

**KENNETH W. NOLAND
PRIMARY EXAMINER**